



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,955	09/12/2000	Steven G. Lemay	3735-932	6102

7590 03/03/2003

GEORGE H. GERSTMAN
SEYFARTH SHAW FAIRWEATHER & GERALDSON
55 EAST MONROE STREET
42nd FLOOR
CHICAGO, IL 60603-5803

EXAMINER

BROCKETTI, JULIE K

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/659,955

Applicant(s)

LEMAY ET AL.

Examiner

Julie K Brockett

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "said first user". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3713

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al., U.S. Patent No. 6,068,552. Walker et al. discloses a game apparatus for configuring a payable for a gaming terminal. A microprocessor is used to control game play on the gaming terminal (Fig. 1). An input device is coupled to the microprocessor and receives information from a user for defining at least a part of a first payable (Fig. 3). The microprocessor is programmed to calculate an overall payout ratio for the payable (col. 7 lines 33-44). An output device such as a display is controlled to output information related to the results of the calculating (Fig. 8). The microprocessor is programmed to store the first payable in a memory coupled to the microprocessor (col. 3 lines 50-59). The input device can be a touch screen device (col. 2 lines 34-35). The display shows information from a stored payable, i.e. the default payable. The information in the stored payable can be modified to define a customized payable, i.e. first payable. The information defines the magnitude of a monetary prize. When a player customizes the magnitude of a monetary prize the player is not allowed to modify or change the prize win frequency. Consequently, when one parameter is altered, the gaming system compensates by the computer modifying another parameter. Moreover, the microprocessor

is programmed to calculate all possible game outcomes and any prizes associated with each possible game outcome (col. 6 lines 57-67; col. 7 lines 1-12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Van Huben et al., U.S. Patent No. 5,878,408. ^{Walker}~~Huben~~ lacks in specifically stating that a message is output if the results fail to comply with the gaming criteria. Huben et al. teaches of a data management system and process. In the process a criteria check is performed and any data that does not pass the criteria check fails and a message is sent to the user (See Van Huben et al. col. 51 lines 29-37). It is well known throughout the art to perform criteria checks to determine if data falls within an acceptable range. It would have been obvious at the time the invention was made to compare the customized payable results to predetermined gaming criteria and then output a message to the user if the results fail to comply with the criteria. It is also obvious to suggest a modification to the payable when the results fail to comply with the criteria. For example, in Walker et al. after a user customizes

a parameter, calculations to determine all other parameters are performed and the user must approve the new parameters before use. Consequently, if a user inputs an invalid parameter, the calculation section will modify this parameter with a new suggested limit. Moreover, the newly customized payable is prevented from being used until all calculations are performed, thereby gaining regulatory approval and user approval. Since every gaming terminal payable requires approval from a regulatory agency. It is obvious that once a player customizes a payable, the payable must undergo regulatory approval. It is obvious that one could gain this approval electronically by transmitting the game related information to a remote computer of a gaming regulatory agency and then having the regulatory agency analyze the game for regulatory compliance and then transmit the approval of the payable information back to the gaming terminal. Transmitting data electronically is well known throughout the art.

Claims 1-4 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Pease et al., U.S. Patent No. 5,326,104. Walker et al. discloses a game apparatus for configuring a payable for a gaming terminal. A microprocessor is used to control game play on the gaming terminal (Fig. 1). An input device is coupled to the microprocessor and receives information from a user for defining at least a part of a first payable (Fig. 3). The gaming terminal receives identification information from a user (col. 4 lines 13-19). The microprocessor is programmed to calculate an overall

payout ratio for the payable (col. 7 lines 33-44). An output device such as a display is controlled to output information related to the results of the calculating (Fig. 8). The microprocessor is programmed to store the first payable in a memory coupled to the microprocessor (col. 3 lines 50-59). The input device can be a touch screen device (col. 2 lines 34-35). The display shows information from a stored payable, i.e. the default payable. The information in the stored payable can be modified to define a customized payable, i.e. first payable. The information defines the magnitude of a monetary prize. When a player customizes the magnitude of a monetary prize the player is not allowed to modify or change the prize win frequency. Consequently, when one parameter is altered, the gaming system compensates by the computer modifying another parameter. Moreover, the microprocessor is programmed to calculate all possible game outcomes and any prizes associated with each possible game outcome (col. 6 lines 57-67; col. 7 lines 1-12). The newly customized payable is then able to be stored in memory (col. 11 lines 14-20).

Pease et al. teaches of a secure automated electronic casino gaming system. In the system a manager needs to enter identification information in order to gain access to the paytables of the gaming system. The manager is authorized to change the paytables only after the manager's identification information is compared with authorized identities (See Pease et al. col. 26 lines 32-67). Consequently, it would have been obvious at the time the

invention was made to only allow authorized individuals access to changing the paytables of the gaming machines of Walker et al. By only allowing authorized persons access, security is maintained in the gaming machine and regular players can not then distort the paytables to their advantage.

Claims 5-7 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Pease et al. and in further view of Van Huben et al., U.S. Patent No. 5,878,408. Huben lacks in specifically stating that a message is output if the results fail to comply with the gaming criteria. Huben et al. teaches of a data management system and process. In the process a criteria check is performed and any data that does not pass the criteria check fails and a message is sent to the user (See Van Huben et al. col. 51 lines 29-37). It is well known throughout the art to perform criteria checks to determine if data falls within an acceptable range. It would have been obvious at the time the invention was made to compare the customized payable results to predetermined gaming criteria and then output a message to the user if the results fail to comply with the criteria. It is also obvious to suggest a modification to the payable when the results fail to comply with the criteria. For example, in Walker et al. after a user customizes a parameter, calculations to determine all other parameters are performed and the user must approve the new parameters before use. Consequently, if a user inputs an invalid parameter, the calculation section will modify this parameter with a new suggested limit. Moreover, the newly customized payable is prevented

from being used until all calculations are performed, thereby gaining regulatory approval and user approval. Since every gaming terminal payable requires approval from a regulatory agency. It is obvious that once a player customizes a payable, the payable must undergo regulatory approval.

Citation of Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Manz, U.S. Patent No. 5,494,287.

--Manz discloses a gaming payout system and method for a gaming machine in which a random selection of a payout for a particular game outcome is determined.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone number is 703-308-7306. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Application/Control Number: 09/659,955
Art Unit: 3713

Page 9

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-5648.



JB

February 27, 2003



**MICHAEL O'NEILL
PRIMARY EXAMINER**